

No. 12599

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United States  
Court of Appeals  
for the Ninth Circuit.

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JAMES MARTIN MacINNIS,

Appellant.

vs.

UNITED STATES OF AMERICA,

Appellee.

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SUPPLEMENTAL  
Transcript of Record

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Appeal from the United States District Court,  
Northern District of California,  
Southern Division.

FILED

JAN 1 1951

PAUL J. SULLIVAN



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JAMES MARTIN MacINNIS,

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STIPULATION AND ORDER THEREON FOR  
CORRECTION OF OMISSION IN RECORD  
ON APPEAL

(Rule 39(b), F. R. Crim. Proc. and  
Rule 75(h) F. R. Civ. Proc.)

It Is Stipulated that a material omission in the printed Transcript of Record in this appeal, made by error in failing to designate for printing, be corrected by adding thereto omitted pages 4974 to 4978, inclusive, Volume 46, of the Reporter's Transcript of the testimony and proceedings of Thursday, February 2, 1950, in the case of United States of America, Plaintiff, vs. Harry Renton Bridges, Henry Schmidt, and J. R. Robertson, Defendants, No. 32117-H, in the District Court of the United States for the Northern District of California, Southern Division; that the entire record in said case of United States of America, Plaintiff, vs. Harry Renton Bridges, et al., having been filed and docketed on appeal from said District Court to this

Court, in No. 12597, C. A. 9th Cir., in Harry Renton Bridges, et al., vs. United States of America, said entire record having been designated for printing, and is now being printed.

Said omission, hereby stipulated for addition, is attached hereto and made a part hereof, and marked Exhibit "A"; to be printed at Government's expense and captioned Supplemental Transcript of Record.

Dated: December 14, 1950.

/s/ JAMES M. McINERNEY,  
Assistant Attorney General.

/s/ FRANK J. HENNESSY,  
United States Attorney.

/s/ R. B. McMILLAN,  
Assistant United States  
Attorney.  
Attorneys for Appellee.

/s/ WILLIAM F. CLEARY,  
Attorney for Appellant.

It Is So Ordered:

/s/ WILLIAM DENMAN,  
Chief Judge.

/s/ WM. E. ORR,  
Circuit Judge.

/s/ WALTER L. POPE,  
Circuit Judge.

Dated: December 14, 1950.

EXHIBIT "A"

In the District Court of the United States for the  
Northern District of California, Southern  
Division

No. 32117-H

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY RENTON BRIDGES, HENRY  
SCHMIDT and J. R. ROBERTSON,

Defendants.

Before: Hon. George B. Harris, Judge.

PARTIAL REPORTER'S TRANSCRIPT

Thursday, February 2, 1950,

Vol. 46, Pages 4974-4978

The Court: There was one other item with respect to the matter of order, and that is, I did not rule upon—at least I can't recall having ruled upon—the motion to strike the testimony of Father Paul Meinecke. Mr. Donohue, you make such a motion?

Mr. Donohue: Yes, on the ground, if your Honor please, that a reading of his testimony would indicate that the father was giving an opinion of his own with respect to the character of the defendant Bridges, and my understanding of the law is that only his general reputation in the community in



which he lives or works is admissible in evidence and that the father negatived the possibility that the opinion which he voiced was [4974\*] his general reputation rather than it was his own opinion. On that basis I ask your Honor to move to strike.

The Court: Mr. MacInnis?

Mr. MacInnis: Well, I am rather surprised that the matter has thus come up again. I thought that the Court had ruled on it.

The Court: No, I had not.

Mr. MacInnis: And in our favor.

The Court: I examined the record last night and it appears I have not ruled, nor have I ruled today on it.

Mr. MacInnis: Well, now, it would appear to me, recalling very vividly as I do the testimony of Father Paul Meinecke, that his words on direct examination met the same standards set by the Court and by our courts of last resort for the testimony of any character witness. Now, he said that he was basing his answer upon his own acquaintanceship with the individual involved, Mr. Harry Bridges, and upon such remarks and statements of other persons in the community as had come to his ears, and that it was a composite of—I can't quote his exact words, but what he believed to be the reputation in the community.

Now, thereafter he was subjected to lengthy cross-examination, and in the course of that cross-examination he made many statements which, of course, had nothing to do with general reputation but which involved, in the words of the prosecutor, personal

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\* Page numbering appearing at top of page of original Reporter's Transcript of Record.



opinion. However, we didn't invite that cross-examination; the prosecutor did, and the prosecutor undertook to argue with the particular witness as to what were the bases for [4975] his personal opinion. And the whole examination departed from the concept of general reputation in the community of a particular witness. Now, the cross-examiner having thus departed from the ordinary scope of the direct examination, can hardly now rise before us and say, "This defendant doesn't meet the standard required by law." I can't think of any possible disability that that testimony would contain.

Mr. Donohue: Your Honor, may I ask you at this time, in reading the testimony of the father last night—I read also the testimony of a number of other character witnesses. May I ask your Honor at this time to withhold any ruling on the testimony of the father in order that we may, perhaps, make a broader motion at a subsequent time which may include the testimony of other witnesses. We would like to be heard at that time on it.

The Court: Well, I should like the motions to be made timely, to the end that we keep a current record. It is difficult to have these matters become embedded in the record, so to speak, and then at some later time or at a later hour make a motion to strike.

Mr. Donohue: If your Honor pleases, would your Honor hold your ruling on this matter? We shall come to a conclusion on other matters not later than Monday.

The Court: Do you have in mind any specific items that I might have in mind? [4976]

Mr. Donohue: Not at the minute, if your Honor please. I don't recall the names. I recall the testimony without being able to ascribe it to persons.

Mr. Hallinan: It seems to me, if the Court please, if I might be heard in that, that the purpose is, by including some other minor matter, to make the motion to strike Father Meinecke's testimony seem a little less infamous. I think we ought to have a rule on that one item alone.

The Court: Well, I am prepared to rule on the matter.

Mr. Hallinan: Well, we ask that your Honor rule on it, now.

The Court: I am prepared to rule on the matter. I will deny the motion to strike. I read the testimony last evening, and I feel that, probably as Mr. MacInnis pointed out, that there was an attempt on his part to have a composite; at least, that was the father's testimony.

And I might say, Mr. MacInnis, that in reading the transcript, I concluded that the proper administration of justice and maintenance of respect due the courts require me to certify that yesterday you committed conduct in the actual presence of this Court constituting contempt.

Mr. MacInnis: Before your Honor finds——

Mr. Hallinan: Might I represent Mr. MacInnis in this before you say anything further?

The Court: And I say for the record, that the Court, in [4977] the proper exercise of its function, propounded a relative and pertinent question to the

witness, Father Paul Meinecke, whereupon Mr. MacInnis addressed the Court as follows:

“I think you should cite yourself for misconduct. I have never heard anything like that. You ought to be ashamed of yourself.”

That appears at transcript page 4796. I say to you, Mr. MacInnis——

Mr. Hallinan: Your Honor, might I be heard on that before——

The Court: I say to you, Mr. MacInnis, that this Court will file a certificate and an order pursuant to Rule 42 of the Rules of Criminal Procedure.

Mr. Hallinan: Your Honor, may I be heard?

The Court: One moment, Mr. Hallinan.

Mr. Hallinan: I have never heard such a—Why can't I be heard in the matter?

The Court: And making such order and fixing such punishment will be deferred. I will defer the punishment to later, to a later date in the trial.

Mr. Hallinan: Very well.

The Court: We will now stand adjourned until tomorrow morning at 10:00 o'clock.

(Whereupon an adjournment was taken to tomorrow, Friday, February 3, 1950, at 10:00 o'clock a.m.)

[Endorsed]: Filed Dec. 20, 1950. [4978]

